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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,864	01/11/2001	Bryan D. Marietta	SC11054TS-2	9578

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Motorola, Inc.  
Austin Intellectual Property Law Section  
MD: TX32/PL02  
7700 West Parmer Lane  
Austin, TX 78729

EXAMINER

NGUYEN, BRIAN D

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 05/26/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/758,864

Applicant(s)

MARIETTA ET AL.

Examiner

Brian D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on the application filed 1/11/01.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-14 is/are allowed.
- 6) ☐ Claim(s) 1,2,5-10 and 15-19 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 15-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 recites the limitation "the receiving unit" in lines 14-15 and "the transmitting unit" in lines 16-17. There is insufficient antecedent basis for this limitation in the claim. The receiving/transmitting unit seems to refer to the receiving/transmitting device.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Gracia et al (6,545,981).

Regarding claim 1, Gracia discloses in a system comprising two communicating devices, a method of communication comprising: creating information packets, each of which has an

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assigned known order number (sequence number) from a plurality of order values; organizing the order values in a predetermined order which the information packets must be transmitted and received in; transmitting the information packets in successive packets solely in accordance with the predetermined order from a first of the two communicating devices to a second of the two communicating devices; successively checking and verifying that each of the information packets which is received is being received pursuant to the predetermined order; and either (1) accepting in the predetermined order each received information packet by providing an acknowledge response (ACK) from the second of the two communicating devices to the first of the two communicating devices; or (2) rejecting a specific information packet by providing the acknowledge response (NACK), the rejecting forcing the first of the two communicating devices to determine which specific information packet was rejected and to resend the specific information packet which was rejected until the specific information packet is accepted by the second of the two communicating devices (see abstract; figure 8; col. 2, lines 15-24).

Regarding claim 2, Gracia discloses upon the first of the two communicating devices receiving the acknowledge response indicating acceptance by the second of the two communicating devices of a predetermined information packet, tracking the plurality of order values to indicate which of the plurality of order values is a next expected order value (see figure 8 for transmission order).

Regarding claim 5, Gracia discloses before receiving the acknowledge response, transmitting additional information packets following the predetermined order and creating an indicator within the first of the two communicating devices to indicate an order value of a next information packet to be transferred (see figure 8).

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Regarding claim 6 Gracia discloses including with the acknowledge response from the second of the two communicating devices a present value of the order number which the second of the two communicating devices used to decide to accept or reject a presently pending information packet being processed (see figure 8).

Regarding claim 7, Gracia discloses checking for communication errors at the second of the two communicating devices by implementing a predetermined error-checking scheme (CRC) of the information packets, which the second of the two communicating devices receives (see col. 5, lines 31-40).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gracia (6,545,981) in view of Veschi et al (5,923,655).

Regarding claims 8-9, Gracia discloses all the claimed subject matter as described in previous paragraph except for specifically disclose the system is asynchronous or a synchronous system. However, both synchronous and asynchronous transmissions are well known in the art and are transmission standards, Veschi discloses synchronous and asynchronous transmissions are well known and standards (see col. 1, lines 58-67). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use synchronous and

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asynchronous transmission methods as taught by Veschi in the system of Gracia in order to meet specific needs.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gracia (6,545,981) in view of Aweya et al (6,584,111).

Regarding claim 10, Gracia does not specifically disclose coupling a third communicating device to the second of the two communicating devices, the first of the two communicating devices communicating the information packets to the third communicating device by following the steps of claim 1; and repeating the steps of claim 1 between the second of the two communicating devices and the third communicating device, thereby eliminating delivery responses between the first of the two communicating devices and the third communicating device. However, this feature is well known in the art. Aweya discloses this feature (see figure 1 where first device is 102, second device is 106, and third device is 104; col. 1, line 57-col. 2, line 8). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the flow control technique as taught by Aweya in the system of Gracia in order to control the flow between adjacent nodes in the network.

*Allowable Subject Matter*

8. Claims 3-4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Claims 11-14 are allowed.

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10. Claims 15-19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

*Conclusion*

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (703) 305-5133. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on (703) 305-4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Brian Nguyen  
5/19/04